

DIRECTOR'S POLICY

#100-02

COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

EFFECTIVE DATE: July 17, 2002

APPROVED BY: 

I. HISTORY

This policy replaces Director's Policy #100-02, Compliance with Americans with Disabilities Act, effective May 2, 1994.

II. PURPOSE

The purpose of this policy is to ensure adequate, consistent, and fair handling of requests for accommodation by individuals with a documented disability under the provisions of the ADA.

III. POLICY

The Americans with Disabilities Act (ADA) of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. The Department of Professional and Occupational Regulation shall apply consistent and objective standards in the handling of requests for accommodation under the ADA.

IV. DEFINITIONS

Auxiliary aids

Services or devices such as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices, videotext displays, readers, taped texts, Brailled materials, and large print materials used to ensure effective communication with individuals who have hearing, vision, or speech impairments.

Individual with a Disability	An individual with a physical or mental impairment that substantially limits a “major life activity,” has a record of such impairment or is regarded as having such an impairment. Drug addiction is an impairment under ADA, but no ADA protection is afforded to individuals while they are illegally using drugs.
Major Life Activities	Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
Public Entity	Any state or local government and any of its departments, agencies, or other subsidiary branches of government.
Qualified Individual with a Disability	An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

V. PROCEDURES

A. PUBLIC MEETINGS, HEARINGS AND COMMITTEE MEETINGS

1. Reasonable accommodations shall be made for disabled individuals to attend all DPOR public meetings, disciplinary proceedings and hearings. Below are the procedures to be followed after a meeting date is scheduled.
 - a) Schedule a meeting location that is accessible to persons with disabilities.
 - b) Any required meeting notices shall indicate that the location is accessible to persons with disabilities and include the following language in the public notice.

Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-XXXX prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department of Professional and Occupational Regulation fully complies with the Americans with Disabilities Act.

- c) The previous paragraph shall appear on all written materials and notices regarding the hearing or meeting. The Department's teletype (TTY)/Voice Designation number (804) 367-9753 shall also be included on all written materials and notices.
- d) All requests for accommodation under the ADA shall be directed to the ADA Coordinator.

B. ADA COMMITTEE

An ADA Committee shall be appointed with the authority to resolve any disagreements, disputes or grievances. The committee shall be comprised of the individuals serving in the following positions.

Deputy Director for Administration and Finance, ADA Coordinator
Director, Human Resources, member
Director, Office of Fair Housing, member
Director, Office of Education and Examinations, member
Assistant Director, Regulatory Programs Division, member
Assistant Director, Enforcement Division, member

The Assistant Director, Regulatory Programs Division shall be selected by the Deputy Director for Regulatory Programs. The Assistant Director, Enforcement Division shall be selected by the Deputy Director for Enforcement. Appointments shall remain in effect until notified in writing of a replacement. The ADA Committee shall report to the Director.

C. PUBLICATIONS

1. All publications, including employment advertising, consumer guidance, biennial reports, regulations, manuals, and handbooks distributed to the general public shall comply with Title II of the ADA.
2. The publication shall include a statement that the Department of Professional and Occupational Regulation complies with the ADA.
3. Upon request, publications shall be available in alternative formats unless it would place an undue financial or administrative burden on the Department; or fundamentally alter the nature of the publication.

D. EXAMINATIONS

1. General

- a) The Department shall offer examinations in an accessible location and provide auxiliary aids and services for qualified individuals with disabilities.
- b) The Department or the examination vendor shall bear the cost of any modifications and/or auxiliary aids provided for qualified individuals with disabilities.

2. Application for Accommodation

- a) Each application for examination administered by the Department or their authorized examination vendor shall contain a request that the qualified applicant acknowledge their need for accommodation when taking the examination.
- b) Candidates requiring accommodation must forward a completed Accommodation Request Form (Appendix A or similar document prepared by the examination vendor and approved by the Office of Education and Examinations) to the Department or their authorized examination vendor. Any requests denied by the examination vendor shall be forwarded to the Department for further review and consideration. Forms and assistance completing the form shall be provided upon request.
- c) Applicants with disabilities must meet the same deadlines for application and submission of documentation established for the pre-registration of non-disabled individuals.
- d) Applicants with documentation of having previously received the same or similar accommodation in a test situation may be permitted to submit that documentation instead of preparing new documentation. The Director of the Office of Education and Examinations shall make all decisions regarding the adequacy of existing documentation.
- e) All disability-related candidate information shall be considered confidential information with access limited to those who are responsible for processing the applicant's request for accommodation.

3. Approval of Requests for Accommodation

- a) Regulatory Board Administrators shall refer all requests for accommodation to the Office of Education and Examinations for processing.
- b) The Director of the Office of Education and Examinations shall approve/deny all accommodation requests for on-site examinations and notify the ADA Coordinator of any accommodations to be made for the examinations.
- c) Examination vendors shall coordinate all approved requests for ADA accommodations.

4. Accommodations

- a) Testing accommodations shall be provided to qualified individuals with disabilities to enable the individual to demonstrate his/her knowledge of the subject being tested to the greatest degree possible by removing any architectural, communication, and transportation barriers or providing auxiliary aids and services. Similar accommodations may be provided to individuals with different disabilities, and different accommodations may be provided to individuals with similar disabilities. When offering testing accommodations, the emphasis should be on meeting the documented need for individual accommodation, not on consistently assigning the same accommodation for the same disability.
- b) If a particular accommodation is requested and the Examination Director/Board deems the accommodation to be inappropriate for any reason, the Office of Education and Examinations may consult with the candidate and/or professional recommending the accommodation to reach a mutually agreeable solution.
- c) Accommodations that may be provided include distraction-free space, an alternative location, test schedule variation, extended time, a scribed exam, sign language interpreters, readers, adaptive equipment, and modification of test presentation/response format.
- d) Time extension requests shall be evaluated on a case-by-case basis, in which consideration is given to the type of accommodations being provided, the disability involved, and the type of test being administered. In situations where a reader is used, double time is usually appropriate. A request for unlimited time is not acceptable. The applicant should be able to complete the test within a finite amount of time. It is the responsibility of the professional who completes the supporting documentation to recommend the appropriate additional time that should be provided.

E. RECORD KEEPING

All documents related to the denial of an ADA accommodation request shall be maintained for a period of one year from the date of denial. In situations where charges of discrimination are filed against the Department, all documentation shall be retained until the final disposition of the case. A copy of this information shall be provided to the ADA Coordinator upon request.

F. APPEAL/GRIEVANCE PROCEDURES

1. General

- a) The Department has adopted an internal grievance procedure to provide prompt and equitable resolution of complaints alleging any action prohibited by the Americans with Disabilities Act. Specifically, Title II of the ADA states, in part, that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any such entity.”
 - b) Complaints should be addressed to the ADA Coordinator, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230, (804) 367-2194.
2. Complaints may be filed verbally or in writing, contain the name and address of the person filing it, and briefly describe the alleged violation(s).
 3. Complaints must be filed within five working days after the complainant becomes aware of the alleged violation.
 4. Following a complaint, an informal but thorough investigation shall be conducted by the Department’s ADA Committee. All interested persons and their representatives shall be afforded an opportunity to submit evidence relevant to the complaint.
 5. A written determination addressing the validity of the complaint and a description of the resolution, if any, shall be issued by the ADA Committee and a copy forwarded to the complainant no later than five workdays after its filing, if possible.
 6. The ADA Coordinator shall maintain the files and records of the Department relating to ADA complaints for three years.

7. The complainant may request reconsideration of the complaint in instances where he/she is dissatisfied with the resolution. The request for reconsideration shall be made to the Director within five days of receiving the committee decision. The Director shall evaluate the request for reconsideration and prepare a written response to the complainant within five workdays, if possible.
8. The right of the person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
9. These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards, and to assure that the Department complies with the ADA when implementing regulations.
10. The timeframes outlined above may be modified if both the Department and the complainant agree to the modification.

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ACCOMMODATION REQUEST FORM

The information requested below and any documentation regarding your disability and your need for testing accommodation will be handled in a confidential manner and will not be shared with any outside source without your written permission.

Name: _____

Address: _____

Phone: _____ Social Security Number _____

Accommodation requested for the _____ examination.

Check all that apply:

- ☐ Accessible Testing Site
- ☐ Braille ☐ Large Print ☐ Tape
- ☐ Reader as accommodation for visual impairment
- ☐ Scribe/amanuensis as accommodation for visual or motor impairment
- ☐ Reader as accommodation for learning disability
- ☐ Scribe/amanuensis as accommodation for learning disability
- ☐ Sign language interpreter
- ☐ Extended time
 - ☐ Time and one-half ☐ Double time
- ☐ Separate testing area
- ☐ Use of computer or other adaptive equipment (specify):

☐ Other (specify): _____

Comments: _____

Signature: _____ Date: _____

(complete reverse side)

DOCUMENTATION OF DISABILITY-RELATED NEEDS

If you have a physical disability, learning disability, a psychological disability, or other unseen disability that requires an accommodation in testing, please have this section completed by an appropriate professional (education professional, doctor, psychologist, psychiatrist, etc.) to certify that your disabling condition requires the requested test accommodation.

IF YOU HAVE EXISTING DOCUMENTATION (DATED WITHIN THE LAST THREE YEARS) OF HAVING THE SAME OR SIMILAR ACCOMMODATION PROVIDED TO YOU IN ANOTHER TEST SITUATION, YOU MAY SUBMIT THAT DOCUMENTATION INSTEAD OF HAVING THIS PORTION OF THE FORM COMPLETED.

I have known _____ since _____ in my
(test applicant) (date)

capacity as a _____
(professional title)

Applicant's disability: _____
(diagnosis) _____

Please indicate how the condition substantially limits major life activity and attach any relevant documentation or comments.

The applicant and I have discussed the nature of the test to be administered. It is my opinion that because of the applicant's disability, he/she should be accommodated by providing the following: (check all that apply)

- ☐ Taped test
- ☐ Large print test
- ☐ Reader
- ☐ Scribe/amanuensis
- ☐ Extended time:
 - ☐ Time and one-half
 - ☐ Double time
- ☐ Separate testing area
- ☐ Use of computer or other adaptive equipment (specify):

☐ Other (specify):

Signature: _____ Title: _____

Address: _____ Phone No. _____

Date: _____ License number (if applicable): _____